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EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/240,434

Applicant(s)

O'NEAL ET AL.

Examiner

Toan D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gossett Dalton, Jr. et al. (U.S. Patent 6,426,955 B1) in view of McMullin (U.S. Patent 5,809,128).

For claim 1, Gossett Dalton, Jr. et al. disclose internet telephony call routing engine, comprising:

a plurality of point of presence (POP) telephony servers, coupled to the telephone network, and coupled to said web server via a data network, said plurality of POP telephony serves for connecting to said first 104 and second telephonic devices 118 via both the telephone network and the data network upon a data command received from said web server 122 via the data network (figure 1, col. 3 line 57 to col. 4 line 21).

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However, Gossett Dalton, Jr. et al. do not disclose a user computer, having a data connection to a web server, for initiating the web server to establish a telephonic connection between first 104 and second telephonic devices coupled to a telephone network; and

wherein said data command is issued by said web server via the data network and via said one or more of the plurality of POP telephony servers to said first and second of telephonic devices in response to said web server being initiated via the data connection between the user computer and the web server by a user controlling said user computer whereby the data command results in the telephonic connection between the first and second telephonic devices via the telephone network and the data network.

In an analogous art, McMullin discloses a user computer, having a data connection to a web server, for initiating the web server to establish a telephonic connection between first and second telephonic devices coupled to a telephone network (see Table 1, col. 6 lines 9-13); and

wherein said data command is issued by said web server via the data network and via said one or more of the plurality of POP telephony servers to said first and second of telephonic devices in response to said web server being initiated via the data connection between the user computer and the web server by a user controlling said user computer whereby the data command results in the telephonic connection between the first and second telephonic devices via the telephone network and the data network (see Table 1, col. 6 lines 5-16).

One skilled in the art would have recognized a user computer, having a data connection to a web server to use the teachings of McMullin in the system of Gossett Dalton, Jr. et al. Therefor, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the user computer, having a data connection to a web server as taught by

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McMullin in Gossett Dalton, Jr. et al.'s system with the motivation being to provide the subscriber using a computer to connect to the PSTN and DCS (col. 6 lines 5-16).

For claim 2, Gossett Dalton, Jr. et al. disclose wherein said computer comprises: a personal computer; a personal digital assistant (PDA); or a set-top box (figure 1).

For claim 3, Gossett Dalton, Jr. et al. disclose wherein said data connection comprises an internet connection (figure 1, col. 4 lines 6-8).

For claim 4, Gossett Dalton, Jr. et al. disclose wherein said web server comprises a server on the internet, for receiving said initiating from said user computer, and for providing said command to said plurality of telephonic devices (figure 1, col. 6 lines 48-50).

For claim 5, Gossett Dalton, Jr. et al. disclose wherein said telephonic connection comprises a voice to voice connection (figure 1, col. 3 lines 62-63 and col. 4 lines 4-6).

For claim 6, Gossett Dalton, Jr. et al. disclose wherein said plurality of telephonic devices comprises: land line telephones; cellular telephones; or personal digital assistants (figure 1).

For claim 7, Gossett Dalton, Jr. et al. disclose wherein said plurality of telephonic devices are coupled to said telephone network (figure 1, col. 3 lines 62-64 and col. 4 lines 4-6).

For claims 8-11, Gossett Dalton, Jr. et al. disclose wherein said plurality of POP telephony servers are coupled to said plurality of telephonic devices via said telephone network, and to said web server via a data network (figure 1, col. 3 line 62 to col. 4 line 12).

For claim 12, Gossett Dalton, Jr. et al. disclose wherein said data command by said web server comprises: a telephone number pertaining to a selected telephonic device to be called; and an IP address of a selected POP telephony server (col. 6 lines 48-53).

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For claims 13 and 14, Gossett Dalton, Jr. et al. disclose wherein said web server provides a data command to each of said plurality of POP telephony servers that are to establish a telephonic connection (col. 6 lines 48-53).

For claims 15 and 21-22, Gossett Dalton, Jr. et al. disclose internet telephony call routing engine, comprising:

a first telephony server, coupled to the first telephone network and to the data network (figure 1, col. 3 lines 62-64);

a second telephony server, coupled to the second telephone network and to the data network (figure 1, col. 4 lines 4-6);

a web server, coupled to the data network and coupled to said first and second telephony servers via the data network (col. 6 lines 23-32); and

However, Gossett Dalton, Jr. et al. do not disclose a user computing device, coupled to the data network, for making a selection of the first and second telephone devices for communication, and for providing said selection to said web server;

wherein, upon receipt of and in response to said selection of the first and second telephone devices from said user computing device, said web server is initiated by the computing device via the data network between the user computing device and the web server to issue commands to said first and second telephony servers to call the first and second telephone devices, respectively, and to establish voice communication between them via the first and second telephone networks and via the data network whereby said first and second telephonic devices are connected via the first and second telephone networks in response to a command from said web server provided to said first and second telephony servers via said data network.

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In an analogous art, McMullin discloses a user computing device, coupled to the data network, for making a selection of the first and second telephone devices for communication, and for providing said selection to said web server (see Table 1, col. 6 lines 9-13); wherein, upon receipt of and in response to said selection of the first and second telephone devices from said user computing device, said web server is initiated by the computing device via the data network between the user computing device and the web server to issue commands to said first and second telephony servers to call the first and second telephone devices, respectively, and to establish voice communication between them whereby said first and second telephonic devices are connected via the first and second telephone networks in response to a data command from said web server provided to said first and second telephony servers via said data network (see Table 1, col. 6 lines 5-16).

One skilled in the art would have recognized a user computing device, coupled to the data network, for making a selection of the first and second telephone devices for communication to use the teachings of McMullin in the system of Gossett Dalton, Jr. et al. Therefor, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the user computing device, coupled to the data network, for making a selection of the first and second telephone devices for communication as taught by McMullin in Gossett Dalton, Jr. et al. with the motivation being to provide the subscriber using a computer to connect to the PSTN and DCS (col. 6 lines 5-16).

For claim 16, Gossett Dalton, Jr. et al. disclose wherein the first and second telephone devices comprise: land line telephones; cellular telephones; or other voice capable telephonic devices coupled to a telephone network (figure 1).

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For claim 17, Gossett Dalton, Jr. et al. disclose wherein said computing device comprises: a personal computer; a laptop computer; or a personal digital assistant (figure 1).

For claim 18, Gossett Dalton, Jr. et al. disclose wherein the first and second telephone networks comprising local telephone switches coupled to the first and second telephone devices, respectively (figure 1, col. 3 lines 62-64 and col. 4 lines 4-6).

For claims 19-20, Gossett Dalton, Jr. et al. disclose wherein the data network comprises: the internet; a local area network; or a wide area network (figure 1, col. 4 lines 6-8).

For claims 23-26, Gossett Dalton, Jr. et al. disclose internet telephony call routing engine, comprising:

a first telephony server, coupled to the first telephone network and to the data network (figure 1, col. 3 lines 62-64);

a second telephony server, coupled to the second telephone network and to the data network (figure 1, col. 4 lines 4-6),

a web server, coupled to the data network and coupled to said first and second telephony servers via the data network (figure 1, col. 6 lines 23-36); and

wherein said web server comprises a POP database for storing an IP address for said first and second telephony servers, and for associating telephone numbers with either of said first or second telephony servers (col. 6 lines 23-53); and

wherein when said user computing device selects said first and second telephone devices for communication, and provides said selection to said web server, said web server determining which of said first and second telephony servers are associated with said selected first and second telephone devices.



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However, Gossett Dalton, Jr. et al. do not disclose:

a user computing device coupled to a data network, for initiating the communication between the first and telephones devices;

a said computing device for making a selection of the first and second telephone devices for communication, and for providing said selection to said web server;

wherein, upon receipt of said data command indicating said selection from said user computing device, said web server commands said first and second telephony servers to call the first and second telephone devices, respectively, and to establish voice communication between them via the first and second telephone networks and via the data network; and

wherein when said user computing device selects said first and second telephone devices for communication, and provides said selection to said web server, said web server determining which of said first and second telephony servers are associated with said selected first and second telephone devices.

In an analogous art, McMullin discloses:

a user computing device coupled to a data network, for initiating the communication between the first and telephones devices (see Table 1, col. 6 lines 9-13);

a said computing device for making a selection of the first and second telephone devices for communication, and for providing said selection to said web server (col. 6 lines 51-63);

wherein, upon receipt of said data command indicating said selection from said user computing device, said web server commands said first and second telephony servers to call the first and second telephone devices, respectively, and to establish voice communication between them (see Table 1, col. 7 lines 23-29); and

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wherein when said user computing device selects said first and second telephone devices for communication, and provides said selection to said web server, said web server determining which of said first and second telephony servers are associated with said selected first and second telephone devices (col. 6 lines 5-32).

One skilled in the art would have recognized a user computing device coupled to a data network to use the teachings of McMullin in the system of Gossett Dalton, Jr. et al. Therefor, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the user computing device coupled to a data network as taught by McMullin in Gossett Dalton, Jr. et al.'s system with the motivation being to provide the subscriber using a computer to connect to the PSTN and DCS (col. 6 lines 5-16).

For claims 27-29, Gossett Dalton, Jr. et al. disclose wherein said first and second telephony servers are located in different cities (figure 1).

For claim 30, Gossett Dalton, Jr. et al. disclose internet telephony call routing engine, comprising:

a plurality of point of presence (POP) servers, each coupled to a local telephone network, and to the data network (figure 1, col. 3 line 62 to col. 4 line 8);

a web server, coupled to said plurality of POP servers via the data network, said web server configured to receive information associated with the two or more telephony devices, for selecting one or more POP servers from said plurality of POP servers, and for establishing voice communication between the two or more telephony devices via the telephone network and via the data network (col. 6 lines 21-36).

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However, Gossett Dalton, Jr. et al. do not disclose a user communication initiation device, coupled to said web server via said data network, for providing a data command associated with the two or more telephony devices to said web server and for initiating the web server via the data network to establish the voice communication between the two or more telephony devices via the telephone network and via the data network.

In an analogous art, McMullin discloses a user communication initiation device, coupled to said web server via said data network, for providing a data command associated with the two or more telephony devices to said web server and for initiating the web server via the data network to establish the voice communication between the two or more telephony devices via the telephone network and via the data network (see Table 1, col. 6 lines 9-13).

One skilled in the art would have recognized a user communication initiation device to use the teachings of McMullin in the system of Gossett Dalton, Jr. et al. Therefor, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the user communication initiation device as taught by McMullin in Gossett Dalton, Jr. et al. with the motivation being to provide the subscriber using a computer to connect to the PSTN and DCS (col. 6 lines 5-16).

For claim 31, Gossett Dalton, Jr. et al. disclose wherein said POP server comprise:  
a data server, for sending and receiving data over the data network (col. 4 lines 1-2); and  
a telephony server, coupled to said data server and to a telephone network, for receiving voice from the telephone network and for providing the voice to said data server for transmission over the data network (figure 1, col. 3 line 62 to col. 4 line 2).

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For claim 32, Gossett Dalton, Jr. et al. disclose wherein said telephony server further receives data from the data network and provides the data to the telephone network (figure 1, col. 3 line 62 to col. 4 line 2).

For claim 33, Gossett Dalton, Jr. et al. disclose wherein said POP servers further comprise voice/data conversion for converting voice to streaming audio format, and for converting streaming audio format to voice (col. 3 lines 64 to col. 4 line 2 and col. 4 lines 6-12).

For claims 34 and 35, Gossett Dalton, Jr. et al. disclose wherein, upon command from said web server, said selected one or more POP servers connect the two or more telephone networks (col. 6 lines 21-53).

For claim 36, Gossett Dalton, Jr. et al. disclose wherein said communication initiation device comprises: a telephony device coupled to said web server via a data network; or a personal computing device (col. 6 lines 21-53).

For claims 37-39, Gossett Dalton, Jr. et al. disclose wherein said communication initiation device selected from a predefined list ones of the two or more telephony devices for communication (figure 1, col. 6 lines 21-53).

For claim 40, Gossett Dalton, Jr. et al. disclose internet telephony call routing engine, comprising:

c) associating local telephony servers with the provided information (figure 2, col. 5 lines 20-30).

However, Gossett Dalton, Jr. et al. do not disclose:

a) selecting via a user computing device the two telephony devices to be connected;

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b) providing by a data command from the user computing device via the data network information associated with the two telephony devices to a web server;

d) commanding from the web server that the associated local telephony servers establish communication with their associated telephony device via the data network;

wherein voice communication between the two telephony devices via the data network is established by the web Server in response to said web server being initiated.

In an analogous art, McMullin discloses:

a) selecting via a user computing device the two telephony devices to be connected (see Table 1, figure 2, col. 8 lines 13-20);

b) providing by a data command from the user computing device via the data network information associated with the two telephony devices to a web server (See Table 1, col. 8 lines 13-20);

d) commanding from the web server that the associated local telephony servers establish communication with their associated telephony device via the data network (See Table 1, col. 8 lines 13-20);

wherein voice communication between the two telephony devices via the data network is established by the web Server in response to said web server being initiated (see Table 1, col. 8 lines 13-20);

One skilled in the art would have recognized a user computing device to use the teachings of McMullin in the system of Gossett Dalton, Jr. et al. Therefor, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the user computing

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device as taught by Mistry in Gossett Dalton, Jr. et al. with the motivation being to provide the subscriber using a computer to connect to the PSTN and DCS (col. 6 lines 5-16).

For claim 41, Gossett Dalton, Jr. et al. disclose wherein said selecting is performed via a personal computer device coupled to the data network (figure 1).

For claim 42, Gossett Dalton, Jr. et al. disclose wherein the information associated with the two telephony devices comprises telephone numbers (col. 4 lines 36-42).

For claim 43, Gossett Dalton, Jr. et al. disclose wherein said associating relates the telephone numbers to IP addresses associated with the local telephony servers (col. 3 line 64 to col. 4 line1).

For claim 44, Gossett Dalton, Jr. et al. disclose further comprising: converting voice data to streaming audio, and streaming audio to voice data to allow voice data to be transmitted to and from the two telephony devices over the data network (figure 1, col. 3 line 64 to col. 4 line 13).

For claim 45, Gossett Dalton, Jr. et al. disclose wherein said user computer selects first and second telephonic devices for communication and provides said selection to said web server via the data network, said web server determining which of said telephony servers are associated with said first and second telephonic devices (col. 6 lines 21-53).

For claims 46-48, Gossett Dalton, Jr. et al. disclose wherein said user computing device selects said first and second telephone devices for communication, and provides said selection to said web server via the data network said web server determining which of said first and second telephony servers are associated with said selected first and second telephone devices (col. 6 lines 21-53).

***Response To Arguments***

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4. Applicant's argument filed February 04, 2004 have been fully considered, but they are not persuasive.

The applicant argues with respect to claims 1, 15, 23, 30 and 40, that the system and method of the invention and recited by the claims related to web initiated telephony including integrated telephone and data networks and is not taught by the combination of Gossett Dalton, Jr. et al. and Mistry. The examiner withdrew the Mistry patent and replaced it by McMullin (U.S. Patent 5, 809,128) where McMullin clearly teaches web initiated telephony including integrated telephone and data networks (see Table 1, figure 2, col. 6 lines 5-32).

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### ***Contact Information***

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

TN  
T.N.



HUY D. VU  
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